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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/041,725	01/08/2002	Jeffrey A. Von Arx	279.396US1	5231

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EXAMINER

MANUEL, GEORGE C

ART UNIT PAPER NUMBER

3762

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

### Application No.

10/041,725

### Applicant(s)

VON ARX ET AL.

### Examiner

George Manuel

### Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-34 is/are allowed.
- 6) ☒ Claim(s) 35 and 36 is/are rejected.
- 7) ☒ Claim(s) 37 and 38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 02/27/04

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Double Patenting***

In view of applicant's response filed 11/15/04, the rejection of claims 35 and 36 under provisional double patenting is withdrawn.

### ***Claim Objections***

Claim 35 is objected to because of the following informalities: Line 10, after "second communication" should include --signal--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al '063 in view of Stein '551.

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Thompson et al disclose a telemetry device operable with an implantable device. The examiner is interpreting the telemetry circuitry associated with the implantable device to comprise a first transceiver and the circuitry associated with the programmer to comprise a second transceiver.

Stein provides circuitry for providing a sensed electrogram. One of ordinary skill in the art would have found it obvious to combine the sensed electrogram data with the telemetry system of Thompson et al because Thompson et al teach the Stein circuitry is adaptable (see col. 2, lines 14-20).

The memory 15 holds data and forms a portion of the telemetry system in the Thompson et al reference. One of ordinary skill in the art would have found it obvious to buffer the data held in memory 15 with sensed electrogram data because in addition to the pacer operating under the control of data parameters stored in memory 15, the memory is also depicted receiving data from sense amplifier 34.

Regarding claim 25, the examiner is interpreting an alert condition to comprise an abnormal sensed heart rate condition.

Regarding claims 33 and 37, one of ordinary skill in the art would have found it obvious to compress the telemetry data because it is well known to compress telemetry data to reduce bandwidth.

Regarding claims 34 and 38, the examiner is interpreting other analog signal sources 36 to comprise another sensor associated with the patient.

Art Unit: 3762

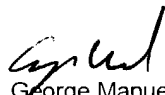
***Allowable Subject Matter***

Claims 1-18 are allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Manuel whose telephone number is (571) 272-4952.

12/2/04

  
George Manuel  
Primary Examiner  
Art Unit: 3762